

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

In re:

THE FINANCIAL OVERSIGHT AND
MANAGEMENT BOARD FOR PUERTO RICO,

as representative of

THE COMMONWEALTH OF PUERTO RICO,

Debtor.¹

PROMESA

Title III

No. 17 BK 3283-LTS
(Jointly Administered)

**MILLIMAN'S POSITION REGARDING
PARAGRAPHS 14-19 OF AMBAC'S STATUS REPORT**

As requested by the Court (ECF No. 16964), Milliman, Inc. ("Milliman") responds with its position on producing the information requested in paragraphs 14 through 19 the status report filed by Ambac Assurance Corporation ("Ambac") on June 8, 2021 (ECF No. 16904).

MILLIMAN'S POSITION

The information sought in paragraphs 14-19 of Ambac's status report should not be necessary to these proceedings; nevertheless, Milliman agrees (with one exception) to produce that information subject to appropriate measures to address the details described below. Ambac and Milliman should meet and confer on these issues and, if they cannot resolve

¹ The Debtors in these Title III Cases, along with each Debtor's respective Title III case number and the last four (4) digits of each Debtor's federal tax identification number, as applicable, are the (i) Commonwealth of Puerto Rico ("Commonwealth") (Bankruptcy Case No. 17-BK-3283- LTS) (Last Four Digits of Federal Tax ID: 3481); (ii) Puerto Rico Sales Tax Financing Corporation ("COFINA") (Bankruptcy Case No. 17-BK-3284-LTS) (Last Four Digits of Federal Tax ID: 8474); (iii) Puerto Rico Highways and Transportation Authority ("HTA") (Bankruptcy Case No. 17-BK-3567-LTS) (Last Four Digits of Federal Tax ID: 3808); (iv) Employees Retirement System of the Government of the Commonwealth of Puerto Rico ("ERS") (Bankruptcy Case No. 17-BK-3566-LTS) (Last Four Digits of Federal Tax ID: 9686); (v) Puerto Rico Electric Power Authority ("PREPA") (Bankruptcy Case No. 17-BK-4780-LTS) (Last Four Digits of Federal Tax ID: 3747); and (vi) Puerto Rico Public Buildings Authority ("PBA") (Bankruptcy Case No. 19-BK-5523- LTS) (Last Four Digits of Federal Tax ID: 3801) (Title III case numbers are listed as Bankruptcy Case numbers due to software limitations).

them, brief them by separate motion and response, so that the Court has all the relevant information before it before any ruling is made.

Paragraph 14

Paragraph 14 of Ambac's status report states that "Milliman continues to refuse to produce its 2018 Actuarial Valuation Report in its entirety, and should be compelled to produce it immediately." ECF No. 16904 ¶ 14.

Milliman agrees to produce the 2018 valuation report once it is no longer in draft form and has been published (which is outside of Milliman's control).

Paragraph 15

Paragraph 15 of Ambac's status report states that "Milliman has identified the electronic project files for the 2016-2017 valuations, but has not agreed to produce them. Milliman should be compelled to produce these files immediately in their entirety." ECF No. 16904 ¶ 15.

Milliman agrees to produce the project files for the 2016-2017 valuation subject to measures to address Milliman's concerns about a large volume personally identifiable information contained in these project files. There are thousands of electronic project files, many of which contain social security numbers, dates of birth, and other personal identifiers. Many files are generated by actuarial software and may not be redactable, and the sheer volume of such information presents concerns about ensuring all such personal information is redacted.

This data may be unnecessary for Ambac's purposes. In any event, Milliman needs to understand those purposes to assess what may be done to either limit or protect the amount of personally identifiable information (or ensure that all that personally identifiable information *must* be produced in these proceedings).

Ambac and Milliman need to continue to meet and confer regarding what can be done to either more narrowly tailor Ambac's request or otherwise address Milliman's concern about the personally identifiable information in those files.

Milliman is in the process of preparing a sample of said files and a log of all files and folders to advance discussions and expects to have the same to Ambac within a week's time.

Paragraph 16

Paragraph 16 of Ambac's status report states that Milliman "has not agreed to produce the data, studies, mortality tables, and other information that underlies the 2018 Actuarial Valuation Report. Milliman should be compelled to produce such data and information immediately, including the "project files" Milliman identified." ECF No. 16904 ¶ 16.²

Milliman agrees to produce the electronic project files for the 2018 valuation (less any draft reports), subject to a resolution of Milliman's concerns about the personally identifiable information contained in these project files (as with the 2016-2017 project files).

Paragraph 17

Paragraph 17 of Ambac's status report states that "Milliman has not agreed to produce its document retention policy, and should be compelled to do immediately." ECF No. 16904 ¶ 17. This is the one exception alluded to above, for which the devil isn't in the details.

The subpoena this Court authorized never sought a document retention policy, and Milliman should not be required to produce this without a subpoena and an opportunity to brief its objection to the issue. Ambac has never explained why a document retention policy of a non-party would be relevant here, where Milliman had no preservation obligation. In any event,

² As it stands, Ambac has not even responded to Milliman's question in its June 1, 2021 e-mail it attached to its status report, asking Ambac to either be more specific about what it means by "data" and clear that it was asking for the same project files for the 2018 valuation as the 2016-2017 valuations. ECF No. 16904-1 at 2.

Milliman should be afforded the normal due process of any non-party, including a subpoena, objections, good faith meet and conferral, and briefing on the issue if it cannot be resolved.

Paragraph 18

Paragraph 18 of Ambac's status report indicates that "Milliman has not agreed to produce documents and communications 'concerning any guidelines, policies, procedures, practices, rules, staff instructions, or standards applicable to the Pension System or used by the Pension Systems.'" ECF No. 16904 ¶ 18.

Milliman has produced such documents by producing all e-mails with the Government Parties and by agreeing to produce (subject to the caveats above) the valuation project files. To the extent this request seeks more than that, the parties should meet and confer regarding the scope of the request (something which has not occurred yet) and brief the issue if needed.

Paragraph 19

Paragraph 19 of Ambac's status report states that "[t]hough Milliman has proposed custodians and search terms for the production of internal correspondence, Milliman has not provided an estimated date for that production, let alone a date certain. Milliman should be compelled to produce these documents within two weeks." ECF No. 16904 ¶ 19.

Milliman agrees to produce internal correspondence related to the valuation reports, subject to the parties negotiating reasonable search parameters. To date, Ambac has not yet responded to Milliman's proposed search terms, which Ambac requested input on. Milliman cannot estimate the date of the production without finalized terms.

Dated: June 16, 2021

Respectfully submitted,

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